

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROGER WALTHORN and
LINDA WALTHORN,

Plaintiffs,

File No. 1:05-CV-757

v.

HON. ROBERT HOLMES BELL

LAW OFFICES OF TIMOTHY E.
BAXTER, P.C., a Michigan
professional services corporation,

Defendant.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Defendant's motion for summary judgment pursuant to Federal Rule of Civil Procedure 56 and Plaintiffs' motion for voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(2). The parties agree that the case should be dismissed with prejudice, however, they do not agree on whether the Court should award Defendant costs and attorney fees. Plaintiff filed this suit under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA"). The FDCPA allows a court to award a defendant reasonable attorney fees and costs where an action has been "brought in bad faith and for the purpose of harassment." 15 U.S.C. § 1692k(a)(1)(3). There has been no showing of bad faith or harassment that would justify an award of attorney fees and costs. Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' motion for voluntary dismissal (Docket #17) is **GRANTED**

IT IS FURTHER ORDERED that Plaintiffs' case is hereby **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that Defendant's motion for summary judgment (Docket #15) is **DENIED AS MOOT**.

Date: August 2, 2006 /s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE